

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: SPRINT COMMUNICATIONS COMPANY L.P., AND LEVEL 3 COMMUNICATIONS, LLC	DOCKET NOS. SPU-02-11 SPU-02-13
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**ORDER DOCKETING APPEALS, CONSOLIDATING CASES, AND
SETTING PROCEDURAL SCHEDULE**

(Issued August 19, 2002)

SPRINT APPEAL, DOCKET NO. SPU-02-11

On July 8, 2002, Sprint Communications Company L.P. (Sprint) filed with the Utilities Board (Board) an appeal from a decision by the North American Numbering Plan Administrator (NANPA) denying Sprint's request for multiple blocks of telephone numbering resources. Sprint states that on April 29, 2002, it requested blocks of 10,000 numbers in each of several Iowa exchanges to use in providing telecommunications services to Internet service providers (ISPs). NANPA denied the request due to lack of state approval of Sprint's numbering resources usage. Since the denial, Sprint and Board staff have worked to identify a solution to the issue, but Sprint asserts that the action taken by NANPA places Sprint at a competitive disadvantage.

Sprint states that the Board can hear this appeal pursuant to authority delegated to the Board by the Federal Communications Commission (FCC) in the

FCC's "Report and Order and Further Notice of Proposed Rulemaking," In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, 15 FCC Rcd 7574 (2000) (the First Numbering Order). Sprint asks the Board for an order instructing NANPA to release the numbers requested by Sprint.

LEVEL 3 APPEAL, DOCKET NO. SPU-02-13

On July 17, 2002, Level 3 Communications, LLC (Level 3), filed with the Board a similar appeal from a decision by NANPA denying Level 3's request for numbering resources in multiple exchanges in Iowa. Level 3 filed the request with NANPA on May 16, 2002, and it was denied on May 29, 2002, because Level 3 lacks state approval of its proposed use of numbering resources. Level 3 states that it then attempted to work with Board staff toward a solution that would provide Level 3 with numbers while conserving numbering resources to the greatest extent possible.

However, Level 3 now states that any further delay will have a significant adverse financial impact on Level 3. Level 3 also states that the denial by NANPA is unlawful because it creates a barrier to entry; is not competitively neutral; is arbitrary and capricious; violates a prior Board order; violates orders of the Federal Communications Commission (FCC); and "implicates Level 3's constitutional rights under the Commerce, Due Process, and Takings clauses." (Appeal at page 6, paragraph 12.)

Level 3 states that it is filing its appeal with the Board pursuant to the FCC's First Numbering Order, which delegates to state public utility regulatory commissions

like the Board the authority to hear appeals from NANPA decisions denying numbering resources.

CONSUMER ADVOCATE RESPONSES

On July 22, 2002, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a request that Sprint's appeal be docketed and a procedural schedule established. Consumer Advocate filed a similar response to Level 3's appeal on July 30, 2002. Consumer Advocate states that based upon the limited information available, it appears Sprint and Level 3 are data local exchange carriers (DLECs) that would require the use of only a few access line numbers out of each block of 10,000 numbers requested. Consumer Advocate notes that other DLECs have requested or are likely to request NXX assignments under similar circumstances, which would further deplete Iowa's scarce numbering resources. Consumer Advocate asks that the Board docket the appeal and require that Sprint and Level 3 file additional information in this docket which addresses their efforts to achieve alternative arrangements that would reduce the impact on Iowa's numbering resources.

ANALYSIS

The Board will docket these two appeals and, because they appear to involve the same issues, consolidate them for hearing. The Board will grant Consumer Advocate's request that Sprint and Level 3 be required to explain, in their initial testimony, the alternative solutions they have considered that could minimize the

impact of their plans on Iowa's numbering resources. The Board will also ask that Sprint and Level 3 compare and contrast their business plans with the "Virtual NXX" proposals considered by the Maine Public Utilities Commission in Investigation into the Use of Central Office Codes (NXXs) by New England Fiber Communications, LLC, d/b/a Brooks Fiber, Docket No. 98-758, "Order Requiring Reclamation of NXX Codes and Special ISP Rates by ILECs," Order No. 4 (Maine PUC June 30, 2000) and the "Order on Reconsideration" issued November 14, 2000, in the same docket.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The "Appeal of NANPA Order Denying Numbering Resources" filed on July 8, 2002, by Sprint Communications Company L.P. is docketed for investigation. The matter will be identified as Docket No. SPU-02-11.
2. The "Appeal of NANPA's Denial of Numbering Resources" filed on July 17, 2002, by Level 3 Communications, LLC, is docketed for investigation. The matter will be identified as Docket No. SPU-02-13.
3. Docket Nos. SPU-02-11 and SPU-02-13 are consolidated for all purposes.
4. The following procedural schedule is established for this proceeding:
 - a. Level 3, Sprint, and any intervenors aligned with the interests of Level 3 or Sprint shall file prepared direct testimony, with supporting exhibits and workpapers, on or before August 30, 2002.

b. Consumer Advocate and any interveners not aligned with Level 3 and Sprint shall file rebuttal testimony, with supporting exhibits and workpapers, on or before September 23, 2002.

c. Level 3, Sprint, and any intervenors aligned with their interests may file reply testimony, with supporting exhibits and workpapers, on or before October 1, 2002.

d. A hearing for the purpose of receiving testimony and cross-examination of all testimony will commence at 9 a.m. on October 15, 2002, in the Board's hearing room at 350 East Maple Street, Des Moines, Iowa. Parties shall appear at the hearing one-half hour prior to the time of hearing to mark exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at 515-281-5256 to request that appropriate arrangements be made.

e. Any party desiring to file a brief may do so on or before October 29, 2002.

5. In the absence of objection, all workpapers shall become a part of the evidentiary record at the time the related testimony and exhibits are entered in the record.

6. In the absence of objection, all data requests and responses referred to in oral testimony or cross-examination, which have not previously been filed with the Board, shall become a part of the evidentiary record. The party making

reference to the data request or response shall file an original and six copies at the earliest possible time.

7. In the absence of objection, if the Board calls for further evidence on any issue and that evidence is filed after the close of hearing, the evidentiary record shall be reopened and the evidence will become a part of the evidentiary record five days after filing. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of hearing.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 19th day of August, 2002.